

INDEPENDENT REVIEW PANEL
STAFF RECOMMENDATION TO THE PANEL

February 27, 2003

Complaint No. A01.267

Name of Complainant: LaCory Patterson

Accused Party: Miami-Dade Police Department (MDPD), Detective Jose Iglesias

Materials Reviewed: Grievance Report Form, Correspondence, Staff Notes, and Departmental Response

Complaint: LaCory Patterson and his grandmother, Elizabeth Curry, visited the Independent Review Panel (IRP) on September 27, 2001. Mr. Patterson stated the following:

In April 2001, he applied for a Correctional Officer position with Florida Department of Corrections. The background investigator called and told Mr. Patterson that his record indicates an arrest that he did not disclose during the interview. One month later, Mr. Patterson received a letter stating that, "after a thorough background check, the decision was made not to offer you employment with the department."

On May 21, 2001, Mr. Patterson and his grandmother, Ms. Curry, went to the Clerk's Office to find out what was in his background. Mr. Patterson said it was at this time that he became aware, for the first time, that he was charged on 4/18/96, at the age of 15, with: "Armed Robbery w/ a Firearm," Attempted Armed Robbery w/ Firearm," and "Use of a Firearm in Felony." They received a computer printout of Mr. Patterson's criminal history. Thereafter they visited the State Attorney's Office, Juvenile-Family Division, where Beverly Radley (a legal secretary) advised them that the investigative records were destroyed and the only thing on file is the Complaint/Arrest Affidavit and a Notice of the No Action. A copy of the Affidavit was provided, on which Miami-Dade Police Department (MDPD) Detective Jose Iglesias' name appeared.

Ms. Curry spoke with Detective Iglesias on June 4, 2001 and requested a copy of MDPD's investigative file. On June 18th, Ms. Curry spoke with Ms. Radley who told her that Detective Iglesias had been "subpoenaed" to report to Leon Botkin's (Chief of Juvenile Division) office with his file upon his return from vacation on June 29, 2001. On June 27th, Ms. Radley telephoned Ms. Curry and said that Detective Iglesias told her that he had to get the balance of his file from the warehouse. Ms. Radley rescheduled the meeting for July 11, 2001, but the meeting never took place because Detective Iglesias still had not gotten his complete file.

Elizabeth Curry said no one from Miami-Dade Police Department contacted the complainant or his grandmother for a statement in 1996 regarding the incident. Ms. Curry said that LaCory has been in her care since he was 7-years old and that her address, which is listed in the Complaint/Arrest Affidavit as 15720 NW 158 Street Road, Opa Locka, is the same today as it was in 1996. Mr. Patterson contends that he only became knowledgeable about the 1996 incident and the charges in 2001, after applying and being rejected for the Correctional Officer position with the State.

Mr. Patterson said that he does not understand how the events that supposedly occurred in 1996 did so without his knowledge and/or participation, specifically: two young women, who he does not know, named him as the subject; three charges were filed by MDPD against him; and the charges were not actioned by the State Attorney's Office – all without him ever being notified. Mr. Patterson denied being involved in the incident.

Mr. Patterson alleges that Detective J. Iglesias:

- 1) Filed criminal charges against him (Patterson) without an investigation and without telling him.
- 2) Falsely recorded on the Arrest Affidavit that Mr. Patterson was "arrest[ed]" and specified a date, time, and location as: "4/18/96, at 10:00 p.m., at 9105 N.W. 25 Street, MDPD Robbery Office."
- 3) Recorded three serious charges on said affidavit based solely on the word of two young women - the alleged victims, and did so without the knowledge or participation of the alleged subject.
- 4) Failed to keep scheduled appointments with representatives in the State Attorney's Office and/or produce his file, on or around June/July 2001.

Departmental Response – MDPD Investigative Report I.A. 2001-347

According to the Complaint/Arrest Affidavit, Victims Theronda Gantt and Nikiki Butler stated that they were walking through Bunche Park (162 Terrace NW 22 Avenue) when Subjects LaCory Patterson and King Hall approached them. The subjects confronted the victims and demanded that they "Gimme watch got." Both the subjects then produced firearms that they pointed at the victims. Victim Gantt relinquished her beeper to the subjects. Victim Butler had no property to relinquish. The subjects then fled on foot. The incident occurred on 1/27/96. The responding Officer on 1/28/96 was Detective Jose Iglesias. The date 4/18/96 appears in the "Arrest Date" box, the time of 10:00 p.m. appears in the "Arrest Time" box, and the location of 9105 NW 25 Street, MDPD Robbery Office, appears in the "Arrest Location" box.

Statements taken by Internal Affairs (IA) (the following was excerpted):

Det. Jose Iglesias' statement was taken 8/30/02. He stated that the robbery victims knew the subjects by name and from school, and identified them to him via a school yearbook. He said that he tried to locate the subjects at their home addresses, and at Norland High School on at least two occasions. Det. Iglesias said that after his attempts to locate the subject had failed, he completed the Complaint/Arrest Affidavit on April 18, 1996, at the MDPD Robbery Office and delivered it to the Juvenile State Attorney's Office, as per their procedure. He had been with the Robbery Section for 10 years and that was the procedure he followed. Det. Iglesias said he responded to the pre-filing hearing, as required to file charges. He added that the victims failed to show. Det. Iglesias advised that he placed the date 4/18/96 in the "Arrest Date" box and 10:00 p.m. in the "Arrest Time" box, because that is when he completed the Complaint/Arrest Affidavit. He placed 9105 NW 25 Street, MDPD Robbery Office, in the "Arrest Location" box because that was where he completed the Complaint/Arrest Affidavit.

Victim Theronda Gantt's statement was taken 11/14/01. She stated that on January 27, 1996, sometime after 7:30 p.m., Mr. Patterson and Mr. Hall, both of whom she

knew from school, robbed her and a friend, Nikiki Butler, at gunpoint in the area of Bunche Park. She called the police and made a police report. Det. Iglesias contacted her a short time later and she provided him with a high school yearbook and identified Mr. Patterson and Mr. Hall as the subjects. Ms. Gantt said that she was notified of the court hearing but received the notification after the hearing date. She received a second notification but failed to attend due to bad weather. Ms. Gantt advised that she is unaware of what the outcome of the case was, but she was positive that Mr. Patterson was the subject who robbed her.

Victim Nikiki Butler could not be located.

Subject King Hall's statement was taken on 6/12/02. He stated that a few years ago, he was able to obtain a copy of his criminal past and discovered that his record indicated that he had been arrested for robbery in 1996. He contacted the State Attorney's Office and found out that Mr. Patterson was arrested on the same charges. He said he was never arrested for robbery and had the charges expunged from his record because the charges had been dropped. Mr. Hall denied robbing Ms. Gantt and Ms. Butler.

In a letter dated November 14, 2001, Director Carlos Alvarez responded to the aforementioned allegations.

In regards to Allegation #1 - The Miami-Dade Police Department did conduct an investigation and were unsuccessful in locating Mr. Patterson. Robbery Bureau Detective Iglesias followed proper procedure by completing a referral arrest form.

In regards to Allegation #2 - After a review of Detective Iglesias' supplemental report, it is clear that Mr. Patterson was not physically arrested and that a referral arrest form was completed and forwarded to the Juvenile State Attorney's office.

In regards to Allegation #3 - that Mr. Patterson was charged with three serious charges based solely on the word of two young women and no input from Mr. Patterson. Detective Iglesias followed Departmental procedure and State law and had probable cause to write a referral arrest form.

In regards to Allegation #4 - that Detective Iglesias failed to keep scheduled appointments with the State Attorney's office and produce his case file. Mr. Botkin from the Juvenile State Attorney's office contacted Detective Iglesias to review the MDPD case file since Mr. Patterson's Juvenile Division case file was destroyed per their procedure and State law. Since Detective Iglesias has ordered the MDPD case file from the warehouse and he did not have it in his possession he rescheduled his appointment with Mr. Botkin.

MDPD's investigative report included a letter dated April 24, 2002, from State Attorney Katherine Fernandez Rundle. Ms. Rundle responded to a request from Congresswoman Carrie Meek on behalf of LaCory Patterson. Ms. Rundle's letter briefly explained the facts of the robbery case involving LaCory Patterson, and further advised that: "Our office investigated the case and ultimately determined that we could not file charges. However, we have no reason to believe that the Detective did not have probable cause to file an arrest affidavit against Mr. Patterson. The proper remedy for Mr. Patterson is to have the arrest expunged from his record. All of this has been explained to

Mr. Patterson and his Grandmother. They want us to have the charges removed from his record without their having to go through the expunction process. We have no authority to do that.”

In a September 16, 2002 memorandum, MDPD Disposition Panel found the allegation that: On Thursday, April 18, 1996, at approximately 10 p.m., Det. Iglesias completed an Arrest/Complaint Affidavit for LaCory Patterson for Armed Robbery, and listed the arrest location as 9105 NW 25 Street (MDPD Headquarters), to be Exonerated.

The following was excerpted from the disposition report:

On Thursday, April 18, 1996, Detective Jose Iglesias completed Arrest/Affidavits on the complainant and Mr. King Hall regarding their participation in an armed robbery of Ms. Theronda Gantt and Ms. Nikiki Butler on January 27, 1996. The complainant as well as Mr. Hall had been identified as the perpetrators involved in the robbery of Gantt and Butler. Detective Iglesias being unable to locate the subjects forwarded Complaint/Arrest Affidavits to the Juvenile State Attorney's office charging the complainant and Mr. King with robbery and several other offenses.

Due to the inability of the Ms. Gantt and Ms. Butler to appear for court, the charges were dropped on the complainant and Mr. King. According to the State Attorney's office, Detective Iglesias had probable cause to file arrest affidavits against the complainant. Based on the facts and evidence provided, Detective Iglesias' action was lawful, proper, and justified.

Staff Remarks:

After receiving the MDPD investigative report on December 18, 2002, a copy of the report was sent to the complainant, with the request that he advise Panel staff whether or not it satisfied his complaint. Mr. Patterson replied via letter dated 1/10/03 (See attachment). Panel staff followed-up telephonically with Ms. Curry on 2/5/03 and Ms. Curry clarified that both she and Mr. Patterson feel an injustice has been done but they feel they must move on, convinced that the wrongdoing will not be corrected by any initiative of the police. They both feel the complainant was victimized by faulty arrest procedures and that the police department and/or the State Attorney's Office, and not Mr. Patterson, should be held accountable to correct the arrest misdeed. They plan no further action.

Staff Findings: Panel staff found that:

1. Det. Jose Iglesias took the alleged victims' statements (1/28/96) and he completed the Complaint/Arrest Affidavit on 4/28/96. During that time span, three (3) months, no contact was made with the subjects of the "referral arrest form" even though Mr. Patterson remained a student at Norland and lived at home at the known address of his grandmother.

Det. Iglesias documented in the narrative of the Complaint/Arrest Affidavit that "after several unsuccessful attempts to locate the subjects, arrest affidavits were forwarded to Dade Youth Services." Det. Iglesias specified in his formal statement, given on 8/30/02 to Internal Affairs, that he made several failed attempts to locate Mr. Patterson at his home as well as Norland High School.

2. Mr. Patterson's address was listed in the affidavit as: 15720 NW 158 Road. The address is still presently Elizabeth Curry's current address, an address that Mr. Patterson has called his

residence from the age of seven (7). Mr. Patterson's letter to the IRP dated 1/10/03 indicates the same address.

3. LaCory Patterson denied being involved in the incident. Mr. Hall denied robbing Ms. Gantt and Ms. Butler. According to the MDPD Internal Affairs written summary, Theronda Gantt stated that she was positive that Mr. Patterson was the subject who robbed her on January 27, 1996. Nikiki Butler could not be located. There appears to be no evidence that Mr. Patterson was notified about any hearing held regarding the felony charges or that he was ever notified the charges were "no actioned" by the State Attorney's Office.
4. Current procedures allow for the creation of an arrest record when no physical arrest has in fact been made.
5. The Miami-Dade Police Department Disposition Panel found that "Det. Iglesias' actions were lawful, proper and justified," what he did conformed to policy and practice. However, that it is possible for someone to be arrested on paper and charged with serious felony charges without that person's knowledge and/or participation in the investigatory process would not likely be perceived as fair and proper by the average citizen.
6. Even though reminded that expungement is a possibility, the complainant has not chosen to pursue that course of action.

Staff Recommendations: Panel staff recommends that the Panel:

1. Ask Miami-Dade Police Department to work with the State Attorney's Office to eliminate the possibility that an arrest record be created absent the physical presence of the arrestee.

DISPOSITION OF THE INDEPENDENT REVIEW PANEL

Complainant: LaCory Patterson

Date: March 5, 2003

IRP Case: A2001.267

From: Eduardo I. Diaz, Ph.D.
Executive Director

The Independent Review Panel met on February 27, 2003 for the purpose of publicly reviewing the complaint made by LaCory Patterson against the Miami-Dade Police Department (MDPD) and the department's response to that complaint. The following represents the findings of the Panel:

A. Allegations

Mr. Patterson alleges that Detective Jose Iglesias:

- 1) Filed criminal charges against Mr. Patterson without an investigation and without telling him.
- 2) Falsely recorded on the Complaint/Arrest Affidavit that Mr. Patterson was "arrest[ed]" and specified a date, time, and location as: "4/18/96, at 10:00 p.m., at 9105 N.W. 25 Street, MDPD Robbery Office."
- 3) Recorded three serious charges on said affidavit based solely on the word of two young women - the alleged victims, and did so without the knowledge or participation of the alleged subject.
- 4) Failed to keep scheduled appointments with representatives in the State Attorney's Office and/or produce Mr. Patterson's file, on or around June/July 2001.

B. Findings of the Independent Review Panel

1. Detective Jose Iglesias took the alleged victims' statements (1/28/96) and he completed the Complaint/Arrest Affidavit on 4/28/96. During that time span, three (3) months, no contact was made with the subjects of the "referral arrest form" even though Mr. Patterson remained a student at Norland High School and lived at home at the known address of his grandmother.

Detective Iglesias documented in the narrative of the Complaint/Arrest Affidavit that "after several unsuccessful attempts to locate the subjects, arrest affidavits were forwarded to Dade Youth Services." Detective Iglesias specified in his formal statement, given six years later on 8/30/02

to Internal Affairs, that he made several failed attempts to locate Mr. Patterson at his home as well as Norland High School.

2. Mr. Patterson's address was listed in the affidavit as: 15720 NW 158 Road, the address that Mr. Patterson has called his residence from the age of seven (7). Mr. Patterson's letter to the IRP dated 1/10/03 indicates the same address.
3. LaCory Patterson denied being involved in the incident. King Hall, the other alleged subject, denied robbing the victims, Theronda Gantt and Nikiki Butler. According to the MDPD Internal Affairs investigative report (completed in 9/02), Ms. Gantt stated that she was positive that Mr. Patterson was the subject who robbed her on January 27, 1996. Ms. Butler could not be located. There appears to be no evidence that Mr. Patterson was notified about any hearing held regarding the felony charges or that he was ever notified the charges were "no actioned" by the State Attorney's Office.
4. Current MDPD procedures allow for the creation of an arrest record when no physical arrest has in fact been made.
5. The Miami-Dade Police Department Disposition Panel found that "Detective Iglesias' actions were lawful, proper and justified," what he did conformed to policy and practice. However, the Independent Review Panel found, that having someone arrested on paper and charged with serious felony charges without that person's knowledge and/or participation would not likely be perceived as fair and proper by the average citizen.
6. Even though reminded that expungment is a possibility, Mr. Patterson has not chosen to pursue that course of action.

C. Recommendation

Ask the Miami-Dade Police Department to work with the State Attorney's Office to eliminate the possibility that an arrest record be created absent the physical presence or knowledge of the arrestee.